

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA            )  
  )  
                  v.                            ) CASE NO. 2:12-CR-32-WKW  
  ) [WO]  
TERRY DON NORTHCUTT                )

**ORDER**

Defendant has filed a motion for compassionate release in which he seeks to modify an imposed term of imprisonment pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). (Doc. # 101.) The Government filed a response in opposition. (Doc. # 106.)

Under § 3582(c)(1)(A)(i), a district court may modify a convicted defendant's sentence when "extraordinary and compelling reasons warrant such a reduction." However, a defendant may only move for such a reduction after he or she "has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or [after] the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." § 3582(c)(1)(A). Courts are not at liberty to excuse a statutory exhaustion requirement. *Ross v. Blake*, 136 S. Ct. 1850, 1856–57 (2016); *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("Where Congress specifically mandates, exhaustion is required."). This statute's exhaustion requirement is no exception. *United States v. Alam*, 960 F.3d 831, 834 (6th Cir. 2020) ("Nothing in

§ 3582(c)(1)(A) suggests the possibility of judge-made exceptions.”). Furthermore, the defendant must exhaust or wait 30 days *before* he or she files a motion for compassionate release. *Id.* at 836 (dismissing a § 3582(c)(1)(A)(i) motion without prejudice because movant’s 30-day window did not close until after the motion was filed).

Defendant’s motion does not demonstrate that he has complied with the statutorily mandated procedure; thus, his motion is premature. Accordingly, it is ORDERED that Defendant’s motion (Doc. # 101) is DENIED without prejudice with leave to re-file his motion, if necessary, after he has exhausted his administrative rights.

DONE this 17th day of August, 2020.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE